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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,672	09/26/2001	Steven M. Ziola	08-000410US	2887

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EXAMINER

CHAPMAN JR, JOHN E

ART UNIT PAPER NUMBER

2856

DATE MAILED: 02/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/965,672

Applicant(s)

ZIOLA ET AL.

Examiner

John E Chapman

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 27-44 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 and 18-25 is/are allowed.
- 6) ☒ Claim(s) 11-17 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 27-44 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 7.

2. The disclosure is objected to because of the following informalities:

The disclosure on page 6, line 5, to page 7, line 27 is directed to the background of the invention and not to a detailed description of the invention. Accordingly, it should be moved to the appropriate section.

The disclosure on page 8, line 1 to page 10, line 27, should follow (or be incorporated into) the detailed description of the invention on page 10, line 29 to page 12, line 26.

Page 10, line 28, the section heading "Description of Example Embodiments" should be deleted.

Appropriate correction is required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11-17 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 11-13, there is insufficient antecedent basis for "the computer" in line 2. It is suggested that "the computer" in line 2 be changed to --a computer--.

Regarding claims 14-16, it should be made clear how the transducer is "configured" to perform the recited function. For example, it would appear that the transducer in claim 14 may be stationary and perform a circumferential scan by virtue of the drive train rotating the container, whereas the transducer of claim 15 must be moved along the longitudinal axis of the container to perform a longitudinal scan. It is not clear how the transducer of claim 15 is "configured" to perform a thickness scan.

Regarding claim 17, it should be made clear how and with respect to what the transmitting/receiving transducer is height or angle adjusted. Namely, it should be made clear that the transducer is mounted so that its height or angle of incidence is adjustable with respect to the container.


Regarding claim 26, it is not clear what the transmitting/receiving transducer is being aligned with. In addition, the recitation of "system software" presupposes the use of a computer coupled to the transmitting/receiving transducer. Accordingly, claim 26 should positively recite a computer coupled to the transmitting/receiving transducer.

5. Claims 1-10 and 18-25 are allowed.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prause et al. discloses an ultrasonic inspection system for testing an object 70.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Chapman whose telephone number is (703) 305-4920.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

  
**JOHN E. CHAPMAN**  
**PRIMARY EXAMINER**